

JC04 Rec'd PC TO 13 OCT 2005 *PLT #74***TRANSMITTAL  
FORM**

Application Number	10/539,940
Filing Date	June 17, 2005
First Named Inventor	Edgar Lein
Title	Device for Dispensing a Mixed Multi-Component Compound
Group Art Unit	
Examiner Name	
Attorney Docket Number	GMH/428/PC/US

**ENCLOSURES**

- |  |  |
|--|--|
| <input type="checkbox"/> Response to Office Action   | <input type="checkbox"/> Preliminary Amendment                     |
| <input type="checkbox"/> Information Disclosure Statement  | <input checked="" type="checkbox"/> Postcard reflecting enclosures |
| <input checked="" type="checkbox"/> English Translation of IPER  |  |
| <input checked="" type="checkbox"/> It is hereby petitioned that any required extension of time be granted for filing the amendment. An extension of _____ month(s) having a fee of \$ _____ appears required. |  |
| <input type="checkbox"/> A check in the amount of \$ _____ is attached. Please credit any overpayment to Deposit Account 16-2563 of Alix, Yale & Ristas, LLP.  |  |

The Commissioner is hereby requested and authorized to charge Deposit Account 16-2563 of Alix, Yale & Ristas, LLP for any fee, not enclosed herewith, due for any reason in connection with the amendment or this or any other document accompanying the amendment, including (a) any filing fees under 37 CFR 1.16 for the presentation of extra claims and (b) any patent application processing fees under 37 CFR 1.17. *A duplicate copy of this sheet is attached.*

**SIGNATURE OF APPLICANT, ATTORNEY OR AGENT**Firm or  
Individual name

Guy D. Yale

Reg. No.

29,125

Signature

Date

October 10, 2005

Attorney's Docket No.

GMH/428/PC/US

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited on the date below with the United States Postal Service as first class mail in an envelope addressed to "Mail Stop Amendment, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313-1450."

Typed or Printed Name

Guy D. Yale

Reg. No.

29,125

Signature

Date:

October 10, 2005

Translation

PATENT COOPERATION TREATY

PCT/EP2003/014614



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference MUEF031PWO	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP2003/014614	International filing date (day/month/year) 19 December 2003 (19.12.2003)	Priority date (day/month/year) 19 December 2002 (19.12.2002)
International Patent Classification (IPC) or national classification and IPC A61C 5/06		
Applicant ERNST MÜHLBAUER GMBH & CO. KG		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 5 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of \_\_\_\_\_ sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 12 July 2004 (12.07.2004)	Date of completion of this report 14 March 2005 (14.03.2005)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP2003/014614

## I. Basis of the report

### 1. With regard to the elements of the international application:\*

☐ the international application as originally filed

☒ the description:

pages \_\_\_\_\_ 1-8 \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

☒ the claims:

pages \_\_\_\_\_ 2-12 \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, as amended (together with any statement under Article 19  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_ 1 \_\_\_\_\_, filed with the letter of \_\_\_\_\_ 07 January 2005 (07.01.2005)

☒ the drawings:

pages \_\_\_\_\_ 1/3-3/3 \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

☐ the sequence listing part of the description:

pages \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

### 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item. These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).  
☐ the language of publication of the international application (under Rule 48.3(b)).  
☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

### 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.  
☐ filed together with the international application in computer readable form.  
☐ furnished subsequently to this Authority in written form.  
☐ furnished subsequently to this Authority in computer readable form.  
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.  
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

### 4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_  
☐ the claims, Nos. \_\_\_\_\_  
☐ the drawings, sheets/fig \_\_\_\_\_

### 5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.  
PCT/EP 03/14614

## V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement			
Novelty (N)	Claims	5, 6, 8, 9, 10	YES
	Claims	1-4, 7, 11, 12	NO
Inventive step (IS)	Claims	5, 6, 8, 9, 10	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-12	YES
	Claims		NO

## 2. Citations and explanations

This report makes reference to the following document:

D1: US-A-3 767 085

1. The present application does not meet the requirements of PCT Article 33(1) because the subject matter of claims 1 and 12 is not novel (PCT Article 33(2)).

1.1 Document D1 discloses (see column 3, lines 5-10, and line 67 to column 4, line 3; and figure 1) a device for dispensing a mixed multiple-component compound, in particular for dental purposes, from a cartridge (20) having a plurality of component containers (21, 22) out of which the components are pressed into a mixing nozzle (80) placed upon the cartridge by the displacement of a plunger arranged in each of the containers, and then discharged from the nozzle, the device comprising a holder (10, 50) for the cartridge and a holder ("collar" 53) for the mixing nozzle (80) connected to the holder (10, 50) for the cartridge (20), it being possible to connect the nozzle to the cartridge (20) by means of the holder (53) for the nozzle. D1 states (column 4, lines 45-

48, and figure 1) that the holder ("collar" 53) can be screwed onto the parallel guide ("cap" 50). For this reason, the holder ("collar" 53) is mounted so as to be movable in the axial direction on the parallel guide ("cap" 50). The subject matter of claim 1 is therefore not novel.

- 1.2 The same argument applies to independent claim 12.
2. Dependent claims 2-4, 7 and 11 do not contain any features which, in combination with the features of any claim to which they refer, meet the PCT novelty or inventive step requirements.
  - 2.1 Claims 2, 3, 4 and 11: see D1 and the corresponding passages cited in the search report.
  - 3.2 Claim 7: in D1 (figure 1), the "collar 53" could also be regarded as a holder for the mixing nozzle, since it is screwed on the holder (50) for the mixing nozzle. That "collar 53" is movable in the longitudinal direction of the device.
4. The combinations of features in dependent claims 5 or 8 are neither known from nor suggested by the available prior art.
  - 4.1 None of the citations shows a device having a holder (for the mixing nozzle) mounted so as to be movable in the axial direction on a parallel guide, it being possible to insert and to remove the mixing nozzle transversely to the longitudinal axis of the device. This solution secures the mixing nozzle better against axial forces.

The subject matter of claims 1 and 5 is therefore novel and inventive (PCT Article 33(2) and 33(3)).

Claims 6, 9 and 10 are dependent on claim 5 and thus likewise meet the PCT novelty and inventive step requirements.

- 4.2 None of the citations shows a device having a holder (for the mixing nozzle) mounted so as to be movable in the axial direction on a parallel guide, it being possible to adjust the holder for the mixing nozzle by means of a lever. This solution makes it possible to attach the mixing nozzle quickly and easily to a cartridge.

The subject matter of claims 1 and 8 is therefore novel and inventive (PCT Article 33(2) and 33(3)).

Claims 9 and 10 are dependent on claim 8 and thus likewise meet the PCT novelty and inventive step requirements.